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UNITED STATES DISTRICT COURT
FOR DISTRICT OF NORTHERN CALIFORNIA

KE FENG LIU

Case No.: C05-03141 CRB

Plaintiff,

**PLAINTIFF'S REQUEST FOR
CONDITIONAL DISMISSAL &
[PROPOSED] ORDER**

vs.

AYA SUSHI & DOES 1 - 10,

Defendants

Plaintiff, Ke-Feng Liu, through his counsel, hereby requests that the Court enter a conditional dismissal as follows:

1. Plaintiff filed Complaint in this case on August 3, 2005.
2. Subsequent to being served with Summons, Defendant retained Mr. David Chen as its counsel.

3. Before entering his appearance for Defendant in this case, Mr. Chen engaged in a settlement discussion with Plaintiff's counsel of record, resulting in a tentative settlement agreement.

4. As result of such tentative agreement, on December 2, 2005, Plaintiff filed an exp parte application to continue the Initial Case Management Conference scheduled on December 9, 2005 for 30 days in which to finalize settlement agreement. On December 5, 2005, this Court entered an order, continuing the Initial Case Management

Conference to January 6, 2006.

5. Since then, parties have engaged in negotiations of the specifics of the terms of the settlement. However, given the holidays and Mr. Chen's scheduled vacation from December 20, 2005 in particular, parties have been unable to finalize their settlement agreement.

3. In light of the settlement tentatively reached by the parties and the subsequent negotiations on the specific terms thereof, plaintiff respectfully requests that this Court enter an order that this case be dismissed with prejudice; provided, however, that if any party hereto shall certify to this Court, with proof of service of a copy thereof on opposing counsel, within 60 days, that the parties have been unable to finalize their settlement agreement, or the agreed consideration for the said settlement has not been delivered over, the foregoing order shall stand vacated and this case shall forthwith be restored to the active calendar to be set for Case Management Conference.

4. Plaintiff also respectfully requests that the Initial Case Management Conference currently scheduled on January 6, 2006 be accordingly vacated.

Dated: December 29, 2005

DAL BON & WANG
ADAM WANG

By: /s/ Adam Wang
Attorney for plaintiff
Ke-Feng Liu

[PROPOSED] ORDER

Pursuant to Plaintiff's request, IT IS HEREBY ORDERED this case be dismissed with prejudice; provided, however, that if any party hereto shall certify to this Court, with proof of service of a copy thereof on opposing counsel, within 60 days hereof, that the parties have been unable to finalize their settlement agreement, or the agreed consideration for the said settlement

1 has not been delivered over, the foregoing Order shall stand vacated and this case shall forthwith
2 be restored to the active calendar to be set for Case Management Conference.

3 IT IS FURTHER ORDERED that the Initial Case Management Conference currently
4 scheduled on January 6, 2006 be hereby vacated.

5 **IT IS SO ORDERED.**

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7 Dated: January 3, 2006

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